

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The above amendments are made to correct typographical errors, and as such, contain no new matter.

Rejection under 35 U.S.C. § 103(a)

In the Office Action, beginning at page 2, Claims 1, 2 and 5-7 were rejected under 35 U.S.C. § 103(a), as reciting subject matters that allegedly are obvious, and therefore allegedly unpatentable, over the disclosure of Kunio Tsuji (JP 8-27008), hereinafter "Tsuji," and Poluektova *et al.* Applicant respectfully requests reconsideration of this rejection for the following reasons.

Applicant strongly disagrees with the Examiner's reading of Tsuji presented in the Office Action, and respectfully asserts that the Examiner is in error. Specifically, Tsuji do not teach or render obvious nucleoside salts. Also, the Office Action asserts that Tsuji presents an example with inosine as the nucleoside and an arginine salt as the salt (Page 4, lines 3-4); however, such assertion is in error for the following reasons.

Simply, Tsuji do not teach nucleoside salts and provide no suggestion or motivation for making a nucleoside salt. Tsuji distinguish carefully, at paragraphs [0017]-[0018], between a nucleoside (such as inosine), a nucleotide (such as 5'-inosinic acid or inosine 5'-phosphate) and a nucleotide salt (such as disodium-5'-inosinate), and never disclose any nucleoside salts. The Examiner cites paragraphs [0015]-[0017] of Tsuji to support his assertion that Tsuji teach nucleoside salts. Paragraph [0013] defines a "nucleoside", and lists inosine as an example. Paragraphs [0014] and [0015] define a nucleotide. Paragraph [0015] also describes inosinic acid, inosine-5'-2 phosphoric acid, and inosine-5'-1 phosphoric acid as examples of nucleotides. There is no description of a nucleoside salt in paragraph [0015]. Paragraph [0016] continues to describe nucleotide

salts. Finally, Paragraph [0017] reiterates the crux of the described disclosure as the “above-mentioned nucleoside, nucleotide, and nucleotide salt. A nucleoside salt is never mentioned, and certainly there is no mention of inosine combined with L-arginine, nor is any suggestion made of this combination.

As is described in paragraph [0030] of the present invention, the claimed inosine salt is in a solid form, and is easily dissolved, which is very useful commercially and practically. Comparing Example 1 (paragraphs [0044] – [0046]) with Comparative Example 1 (paragraphs [0047] – [0048]) shows that the claimed solid salt can be prepared by the process steps recited in claims 3 and 4, or the method of claim 14, which is now allowed. Therefore, the inventive inosine L-arginine salt is a novel compound, and is definitely not rendered obvious by the disclosure of Tsuji.

The Examiner has added the reference of Poluektova to the rejection, although it is unclear if these references are being combined or if they stand alone in this rejection. Nevertheless, Poluektova fails to render obvious the claimed invention, nor does it make up for the deficiencies of Tsuji. Poluektova teaches inosine derivatives, but fails to teach the combination of inosine with L-arginine. In fact, L-arginine is never even mentioned in Poluektova. Poluektova teach inosine with L-arginine butyrate, which is entirely different from inosine combined with L-arginine. L-arginine butyrate *per se* is a typical salt, that is, the salt of L-arginine as a base, arginine being a basic amino acid. Butyric acid is an acid, that is, the L-arginine moiety of L-arginine butyric exists in the salt form. Therefore, clearly the complex of inosine and L-arginine butyrate taught by Poluektova is not suggestive of, nor can it render obvious, either alone or in combination with Tsuji, the claimed solid inosine L-arginine salt.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1, 2 and 5-7, each taken as a whole, would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention, are therefore not unpatentable under 35 U.S.C. § 103(a), and therefore respectfully requests withdrawal of

the rejection thereof under 35 U.S.C. § 103(a).

In the Office Action, beginning at page 4, Claims 3 and 4 were rejected under 35 U.S.C. § 103(a), as reciting subject matters that allegedly are obvious, and therefore allegedly unpatentable, over the disclosure of Kunio Tsuji (JP 8-27008), hereinafter "Tsuji," and Poluektova. Applicant respectfully requests reconsideration of this rejection for the following reasons.

The Office Action alleges that claims 3 and 4 fail to further limit claim 1 since they only add product-by-process limitations. Therefore, the claims are allegedly rejected for the same reasons as claims 1 and 2. Applicants respectfully direct the Examiner to the above arguments.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 3, 4 and 14, each taken as a whole, would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention, are therefore not unpatentable under 35 U.S.C. § 103(a), and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 103(a).

Claim Objections

On page 4 of the Office Action, claim 7 was objected as depending on a cancelled claim. The dependency of claim 7 has been corrected. Withdrawal of this objection is respectfully requested.

Conclusion

Applicants greatly appreciate the indication by the Examiner of the allowance of Claim 14. For at least the foregoing reasons, Applicant respectfully submits that the remaining claim are in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Johnsen believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the undersigned respectfully requests that she be contacted immediately.

Respectfully submitted,

By: 

Shelly Guest Cermak
Registration No. 39,571

U.S. P.T.O. Customer No. 38108
Cermak & Kenealy, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314
703.778.6608

Date: 2005